

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION

MICHAEL WHALEY                               §  
VS.    §     CIVIL ACTION NO. 5:07-CV-20  
DIRECTOR, TDCJ-CID                      §

**MEMORANDUM ORDER OVERRULING PETITIONER’S OBJECTIONS AND ADOPTING  
THE MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION**

Petitioner Michael Whaley, a prisoner confined at the Telford Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, brought this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

The court ordered that this matter be referred to a magistrate judge for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends denying the petition. The magistrate judge also recommends denying petitioner a certificate of appealability.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Petitioner filed objections to the magistrate judge's Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes the objections are without merit. As a result of the disciplinary conviction, petitioner was sanctioned with a reduction in his time-earning status. Prisoners do not have a constitutionally protected right to a particular time-earning status. *Malchi v. Thaler*, 211 F.3d 953, 958 (5th Cir. 2000). Therefore, petitioner is not entitled to relief.

## ORDER

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is

**ADOPTED.** Petitioner is **DENIED** a certificate of appealability. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

**SIGNED this 2nd day of August, 2007.**

A handwritten signature in black ink, appearing to read "David Folsom", written over a horizontal line.

DAVID FOLSOM  
UNITED STATES DISTRICT JUDGE